

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

CHARLES W. MCDONALD,

Plaintiff,

v.

**ROBERT SCHRINER, Head of Baptist Sleep
Disorders Center; BAPTIST SLEEP
DISORDER CTR.; BAPTIST MEM'L HOSP.;
WEST-WARD PHARM. CORP.; GLENMARK
PHARM., INC.; GLENMARK PHARM., INC.,
USA; GLAXOSMITHKLINE LLC;
GLAXOSMITHKLINE CONSUMER
HEALTHCARE HOLDINGS (US) LLC; and
WALGREENS,**

Defendants.

Case No. 2:18-cv-02084-JTF-dkv

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
TO DENY AS MOOT DEFENDANTS BAPTIST MEMORIAL HOSPITAL AND
BAPTIST SLEEP DISORDER CENTER'S MOTION TO DISMISS AND DEFENDANT
ROBERT SCHRINER'S MOTION TO DISMISS**

Before the Court are Defendants Baptist Memorial Hospital and Baptist Sleep Disorder Center's Motion to Dismiss filed February 14, 2018, and Defendant Robert Schriner's Motion to Dismiss filed on February 21, 2018. (ECF Nos. 19 & 23; *see also* ECF No. 21.) The Motions were referred to the Chief Magistrate Judge. On March 12, 2018, the Chief Magistrate Judge issued a Report and Recommendation on Defendants' Motions suggesting that Plaintiff's Voluntary Dismissal of Dr. Robert Schriner, Baptist Sleep Disorder Center, and Baptist Memorial Hospital, (ECF No. 24), rendered the Motions moot. (ECF No. 31, 2.) No Objections to the Report and Recommendation were submitted.

I. LEGAL STANDARD

Congress passed 28 U.S.C. § 636(b) “to relieve some of the burden on the federal courts by permitting the assignment of certain district court duties to magistrates.” *United States v. Curtis*, 237 F.3d 598, 602 (6th Cir. 2001). Pursuant to the provision, magistrate judges may hear and determine any pretrial matter pending before the Court, except various dispositive motions. 28 U.S.C. § 636(b)(1)(A). Upon hearing a pending matter, “[T]he magistrate judge must enter a recommended disposition, including, if appropriate, proposed findings of fact.” Fed. R. Civ. P. 72(b)(1); *see also Baker v. Peterson*, 67 F. App’x 308, 310 (6th Cir. 2003). Any party who disagrees with a magistrate’s proposed findings and recommendation may file written objections to the report and recommendation. Fed. R. Civ. P. 72(b)(2).

The standard of review that is applied by the district court depends on the nature of the matter considered by the magistrate judge. *See Baker v. Peterson*, 67 F. App’x 308, 310 (6th Cir. 2003) (citations omitted) (“A district court normally applies a ‘clearly erroneous or contrary to law’ standard of review for nondispositive preliminary measures. A district court must review dispositive motions under the *de novo* standard.”). Upon review of the evidence, the district court may accept, reject, or modify the proposed findings or recommendations of the magistrate judge. *Brown v. Board of Educ.*, 47 F. Supp. 3d 665, 674 (W.D. Tenn. 2014); *see also* 28 U.S.C. § 636(b)(1). The court “may also receive further evidence or recommit the matter to the [m]agistrate [j]udge with instructions.” *Moses v. Gardner*, No. 2:14-cv-2706-SHL-dkv, 2015 U.S. Dist. LEXIS 29701, at *3 (W.D. Tenn. Mar. 11, 2015). A district judge should adopt the findings and rulings of the magistrate judge to which no specific objection is filed. *Brown*, 47 F. Supp. 3d at 674.

II. ANALYSIS

The Chief Magistrate Judge recommends that the Motions filed by Baptist Memorial Hospital, Baptist Sleep Disorder Center, and Robert Schriener, to dismiss the Complaint for lack of subject matter jurisdiction, be denied as moot. (ECF No. 31, 2.) This Court agrees with that conclusion. As a result of Plaintiff's Voluntary Dismissal, (ECF No. 24), Baptist Memorial Hospital, Baptist Sleep Disorder Center, and Robert Schriener were previously dismissed from this lawsuit. (ECF No. 29.) Accordingly, the instant Motions before the Court are moot.

III. CONCLUSION

Upon *de novo* review, the Court hereby **ADOPTS** the Magistrate Judge's Report and Recommendation to **DENY** as moot Defendants Baptist Memorial Hospital, Baptist Sleep Disorder Center, and Robert Schriener's Motions to Dismiss.

IT IS SO ORDERED on this 1st day of June 2018.

s/John T. Fowlkes, Jr.
John T. Fowlkes, Jr.
United States District Judge